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Presentment Date: October 12, 2021  
Time: 12:00 p.m.

Objections Due: October 12, 2021  
Time: 11:00 a.m.

*Attorneys for Irving H. Picard, Trustee for the  
Substantively Consolidated SIPA Liquidation of  
Bernard L. Madoff Investment Securities LLC  
and the Chapter 7 Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

Adv. Pro. No. 08-01789 (CGM)

SIPA Liquidation

(Substantively Consolidated)

**TRUSTEE'S APPLICATION FOR AN ORDER APPROVING THE  
RETENTION OF LUKINS & ANNIS P.S. AS SPECIAL COUNSEL  
NUNC PRO TUNC AS OF SEPTEMBER 16, 2021**

Irving H. Picard (the "Trustee"), as trustee for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC ("BLMIS") under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* ("SIPA"), and the Chapter 7 estate of Bernard L.

Madoff (together with BLMIS, the “Debtor”), by and through his undersigned counsel, hereby submits this Application for authority to retain special counsel *nunc pro tunc* as of September 16, 2021, and respectfully represents as follows:

**Jurisdiction**

1. This Court has jurisdiction over this Application under SIPA section 78eee(b) and 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue in this District is proper under 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief sought herein are section 78eee(b)(3) of SIPA, sections 327(e), 328, 329 and 330 of the Bankruptcy Code, and Fed. R. Bankr. P. 2014.

**Background**

3. On December 11, 2008, the Securities and Exchange Commission filed a complaint in the United States District Court for the Southern District of New York against Bernard L. Madoff and BLMIS, alleging that Madoff and BLMIS engaged in fraud through the investment advisory activities of BLMIS. *See United States v. Madoff*, No. 08 CV 10791 (S.D.N.Y. 2008).

4. On December 15, 2008, the Honorable Louis L. Stanton of the United States District Court for the Southern District of New York entered an order pursuant to SIPA, which in pertinent part:

- a) appointed the Trustee for the liquidation of the business of BLMIS pursuant to section 78eee(b)(3) of SIPA;
- b) appointed Baker & Hostetler LLP as counsel to the Trustee pursuant to section 78eee(b)(3) of SIPA; and
- c) removed the case to this Bankruptcy Court pursuant to section 78eee(b)(4) of SIPA.

5. Issues have arisen in the State of Idaho that require the Trustee's representation by local counsel. The Trustee is litigating certain claims which require specific knowledge of Idaho law. The Trustee believes the estate will best be served, and the Trustee will best be able to perform his duties, with the assistance of local counsel.

**Relief Requested**

6. Lukins & Annis P.S. ("Lukins") is a strong, mid-sized firm with knowledge and expertise in the laws of the State of Idaho. Mr. Jonathon Hallin, an of counsel attorney at Lukins, is a seasoned litigator with expertise in commercial litigation.

7. The services of Lukins and Mr. Hallin are necessary and essential to enable the Trustee to execute faithfully his duties in the SIPA liquidation proceeding. The Trustee, therefore, proposes to retain and employ Lukins as special counsel with regard to litigation and any similar matters as directed by the Trustee effective as of September 16, 2021.

8. The Trustee submits that the retention of Lukins is permissible under section 78eee(b)(3) of SIPA and is in the best interest of the Debtor's estate, customers, and creditors. To the best of the Trustee's knowledge, and as set out in Mr. Hallin's declaration of disinterestedness annexed hereto as Exhibit A, the partners of Lukins are disinterested pursuant to section 78eee(b)(3) of SIPA and do not hold or represent any interest adverse to the Debtor's estate with respect to the appeal.

9. Lukins is willing to act on the Trustee's behalf to render the foregoing professional services and will be compensated at agreed upon rates, listed below, which reflect a reduction of its normal rates by at least ten percent (10%). Applications for compensation to Lukins will be filed with this Court pursuant to applicable statutes, rules, and orders of this Court. Lukins's rate information is as follows:

<b>Attorney</b>	<b>Standard Hourly Rates</b>	<b>Discounted Hourly Rates</b>
Mr. Hallin	\$285.00	\$255.00
Paralegals	\$125.00 to \$165.00	\$112.50 to \$148.50
Legal Assistants	\$105.00 to \$130.00	\$94.50 to \$117.00

Lukins and Baker & Hostetler will coordinate so that there will be no duplication of efforts.

10. SIPC has no objection to this Application and, pursuant to SIPA section 78eee(b)(3), SIPC specifies that the Trustee should be authorized to retain Lukins as special counsel in Idaho.

#### **Notice**

11. Notice of this Application will be provided by U.S. Mail or email to (i) all parties included in the Master Service List as defined in the Order Establishing Notice Procedures (ECF No. 4560); (ii) all parties that have filed a notice of appearance in this case; (iii) the SEC; (iv) the IRS; (v) the United States Attorney for the Southern District of New York; and (vi) SIPC, pursuant to the Order Establishing Notice Procedures (ECF No. 4560). The Trustee submits that no other or further notice is required.

**WHEREFORE**, the Trustee respectfully requests that the Court enter an order substantially in the form of Exhibit B hereto, (a) granting this Application; (b) authorizing the Trustee to employ Lukins as special counsel in Idaho for the purposes described herein, *nunc pro tunc*, as of September 16, 2021; and (c) granting the Trustee such other and further relief as is just and proper.

Dated: October 6, 2021  
New York, New York

Respectfully submitted,

/s/ David J. Sheehan

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